

## Message Text

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AMEMBASSY TEGUCIGALPA

C O N F I D E N T I A L MANAGUA 5798

E.O. 11652: GDS  
TAGS: PINT, NU  
SUBJECT: POLITICAL TRIALS IN NICARAGUA ENTER NEW STAGE

SUMMARY: THE PROCESS AGAINST PERSONS ACCUSED OF BELONGING TO OR COLLABORATING WITH THE GUERRILLA ORGANIZATION NATIONAL SANDINST LIBERATION FRONT (FSLN) HAS ENTERED A NEW STAGE AS THE MILITARY COURT INVESTIGATING FSLN ACTIVITIES HANDED OUT INDICTMENTS AGAINST 111 PERSONS. THE INDICTEES HAVE NOW GONE BEFORE A COURT-MARTIAL, WHICH WILL RENDER A VERDICT AND IMPOSE SENTENCES. THE END OF THE TRIAL, WHICH IS EXPECTED IN MID-JANUARY 1977, MAY BE FOLLOWED BY THE LIFTING OF THE STATE OF SIEGE IN EFFECT SINCE DEC. 1974. END SUMMARY

1. THE INVESTIGATIVE STATE OF THE PROCESS AGAINST PERSONS ACCUSED OF BELONGING TO OR COLLABORATING WITH THE NICARAGUAN GUERRILLA ORGANIZATION, THE NATIONAL SANDINST LIBERATION FRONT (FSLN) HAS COME TO AN END AFTER DRAGGING ON FOR ALMOST TWO YEARS. THE MILITARY COURT INVESTIGATING FSLN ACTIVITIES HAS HANDED OUT INDICTMENTS AGAINST 111 PERSONS, OF  
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WHICH 36 ARE BEING HELD AND 75 ARE STILL AT LARGE. CARLOS AGUERO CHAVARRIA, ONE OF THE PRINCIPAL FSLN LEADERS STILL AT LARGE, WAS INDICTED ON 21 COUNTS; TOMAS BORGE, THE FORMER HEAD OF THE FSLN URBAN GUERRILLA, CAPTURED IN FEB. 1976, WAS INDICTED ON 20 COUNTS. THE OTHER INDICTEES, WHICH INCLUDE MEMBERS OF SOME OF NICARAGUA'S MOST PROMINENT FAMILIES

AS WELL AS STUDENTS AND CAMPESINOS, WERE CHARGED WITH BETWEEN TWO AND 19 OFFENSES. SOME ARE ACCUSED OF MURDER AND KIDNAPPING IN CONNECTION WITH THE FSLN LOS ROBLES ATTACK OF DECEMBER 27, 1974; OTHERS ARE CHARGED WITH LESSER CRIMES SUCH AS HARBORING FUGITIVES OR ACTING AS FSLN MESSENGERS.

2. THE INDICTEES HAVE NOW GONE BEFORE A COURT-MARTIAL, WHICH WILL RENDER A VERDICT AND IMPOSE SENTENCES. THE MEMBERS OF THE COURT-MARTIAL ARE COLONEL RAFAEL LOLA, COMMANDER OF THE MASAYA MILITARY DISTRICT, AND LIEUTENANT COLONELS GERMAN BELLO, ERNESTO CHAVARRIA, OCTAVIO CASTILLO AND ADOLFO SOLIS. LOLA AND SOLIS REPLACE COLONEL ARIEL ARGUELLO AND LIEUTENANT COLONEL RENE ZELAYA, WHO WERE CHALLENGED BY THE DEFENSE, ARGUELLO BECAUSE OF HIS PARTICIPATION IN THE RECENT CONDECA MANEUUVERS, AGUILA 6. IRONICALLY, COL. LOLA IS REPUTED TO BE A MUCH TOUGHER OFFICER THAN THE MAN HE REPLACES. THE END OF THE TRIAL MAY BE FOLLOWED BY THE LIFTING OF THE STATE OF SIEGE THAT HAS BEEN IN EFFECT SINCE DECEMBER 1974. THE MOST OPTIMISTIC ESTIMATE FOR THE END OF THE TRIAL IS DECEMBER 30, BUT A MORE PROBABLE DATE IS SOMETIME AROUND JANUARY 15.

3. OPPONENTS OF THE SOMOZA REGIME AND SOME OF THE DEFENSE LAWYERS HAVE CHALLENGED THE COMPETENCE OF THE MILITARY COURT, ARGUING THAT THE COURT'S PROCEEDINGS, WHICH ARE BASED ON THE REGLAMENTO OF THE NATIONAL GUARD (GN) ARE ILLEGAL, BECAUSE THE REGLAMENTO IS AN INTERNAL REGULATION OF THE GN, NOT APPLICABLE TO CIVILIANS. THEY POINT OUT THAT IT HAS NEVER BEEN APPROVED BY CONGRESS AND, THEREFORE, DOES NOT HAVE THE FORCE

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OF LAW, AND IT HAS NEVER APPEARED IN THE GACETA (DIARIO OFICIAL), WHERE ALL LAWS AND DECREES HAVE TO BE PUBLISHED BEFORE THEY ENTER INTO EFFECT. THE PROPRIETY OF TRYING SOME OF THE ACCUSED IN ABSENTIA HAS ALSO BEEN QUESTIONED. THE GON'S POSITION RESTS ON A 1957 SUPREME COURT OPINION (GIVEN AFTER THE ASSASSINATION OF PRESIDENT SOMOZA GARCIA) THAT UNDER THE STATE OF SIEGE MILITARY COURTS HAVE JURISDICTION OVER ALL PERSONS, CIVILIAN OR MILITARY, ACCUSED OF THE CRIME THAT GAVE ORIGIN TO THE STATE OF SIEGE. TO NO ONE'S SURPRISE, THE COURT HAS REJECTED ALL CHALLENGES TO ITS COMPETENCE.

4. COMMENT: IF THE END OF THE TRIAL, AS WIDELY EXPECTED, IS FOLLOWED BY THE LIFTING OF THE STATE OF SIEGE, IT WOULD MEAN THE OPENING OF A NEW POLITICAL ERA IN NICARAGUA, LAYING TO REST THE FEAR THAT THE STATE OF SIEGE AND CENSORSHIP MIGHT HAVE BECOME A PERMANENT FEATURE IN NICARAGUAN POLITICAL LIFE. AN IMPORTANT FACTOR IN THIS POSSIBLE EVOLUTION TOWARD A MORE OPEN POLITICAL SYSTEM IS THE HEAVY BLOWS SUFFERED BY THE FSLN

IN RECENT MONTHS, INCLUDING THE DEATH OF ITS NATIONAL LEADER, CARLOS FONSECA AMADOR. AS THE FSLN THREAT RECEDES, SO DOES THE JUSTIFICATION FOR EXTRAORDINARY MEASURES. GON OFFICIALS HAVE TALKED FOR MANY MONTHS ABOUT THE LIFTING OF THE STATE OF SIEGE AND THE EMBASSY HAS REPORTED SUCH POSSIBILITIES FREQUENTLY. THE ONE THREAD OF CONSISTENCY IN THOSE REPORTS, HOWEVER, HAS BEEN THE NEED TO WAIT

FOR THE END OF THE TRIAL. IF, INDEED, THE TRIAL ENDS IN JANUARY THE PROBABILITY OF THE LIFTING OF THE STATE OF SIEGE WOULD SEEM BETTER THAN EVER BEFORE.  
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